Development Management - Delegated Officer Report

Application Number: AWDM/0264/22 Recommendation – Approve

Site: Eastern Sands Caravan Park, 100 Brighton Road, Lancing

Proposal: Application for a Lawful Development Certificate for the existing use of caravan pitch nos. 2,4,10,17 and 35 as a caravan site for 12 months of the year in breach of condition 1 of planning permission reference L/6/81

Date of site visit: Not visited

Neighbours checked: Y

Additional neighbour notifications: N

Proposal, Site and Surroundings

The application relates to the Eastern Sands caravan park which fronts the beach at Lancing. The caravan park comprises 40 single-unit caravans, sited in linear rows and accessed south of the A259.

The application seeks a Certificate of Existing Lawful Use for the use of caravan pitch nos. 2, 4, 10, 17 and 35 as a caravan site for 12 months of the year in breach of condition 1 of planning permission reference L/6/81.

Condition 1 reads as follows:

No caravan stationed on the site shall be occupied before 1st March or after 31st October in each year; except that during the months of November to February (inclusive) occupation of a caravan is permitted for an aggregate of not more than 30 days for purposes of maintenance and repair.

This permission (L/6/81/TP) was granted for the wider site known as Golden Sands Caravan Site which was then divided into two separate sites that operate as independent entities: Beach Park Caravan Park and Eastern Sands Caravan Park.

The supporting Planning Statement advises that:

"*Our client, Mr Thomas Cooper purchased Eastern Sands Caravan Park from the then owners, Adur District Council on 14th October 2008. Until 2005, the Council also owned the park to the west of the site, however this was sold and subsequently renamed to Beach Park. It is understood that the parks were being used by the Council for both holiday accommodation (west part, now known as Beach Park) and to house social housing tenants (east part, now known as Eastern Sands Caravan Park) and they were considered as one site, known as Golden Sands Caravan site. Since the split and sale of the western part (Beach Park), the two caravan parks remain distinctly independent from one another*."

It has become apparent that a number of caravans are being occupied all year round and this application has identified those 5no. individual units that have been used all year round for at least the last ten years in breach of condition 1 L/6/81.

Relevant Planning History

L/6/81 - Permanent Use Of Land For The Standing Of Static Holiday Caravans (For Occupation Between 1/3 & 31/10, & For Maintenance Only Between 1/11 & 28/2) - approved

L/66/89 - Application For Permission To Continue Use Of Part Of Land As A Caravan Site Without Complying With Condition 1 Of L/6/81/TP. (Regulation 4 Application) - this allowed the Council to continue using part of Golden Sands as a caravan site without complying with condition 1 of L/6/81/TP. This was to enable 40 units to be occupied residentially throughout the year. The part of the site this application referred to is the land that now comprises this application site. Condition 1 of this permission required the residential use to cease by 31 May 1999.

L/5/01 - Continued Use Of East Part Of Site For Residential Occupation Of Up To 40 Mobile Homes (Renewal Of L/66/89)(Reg.3) - This permission was granted for the land subject to this application, but this was also exclusive to Adur Council and condition 1 required the use to be discontinued on 31st January 2007.

In December 2008, a Site Licence no. ADC/1/2008 was issued for the use of the land Golden Sands Holiday Park (East), currently known as Eastern Sands Caravan Park, as a caravan site. The Site Licence does not include any restrictions on the season the park can operate, or the number of caravans that can be sited on the park. Therefore, the caravans at the park have not been used in breach of the site licence.

AWDM/0994/21 - Application for a Lawful Development Certificate for Existing use of land for the all year use of the site as a caravan park - withdrawn

Planning Assessment

The Evidence

Evidence has been submitted for each caravan which, according to the Planning Statement, provides month-by-month evidence (for the winter months in question) such as bank slips and statements and letting agreements, to demonstrate that each of the specified caravans have been occupied in breach of condition 1 of permission L/6/81/TP.

The application seeks to show that the caravans have been occupied as follows:

Caravan 2: has been used during the months in question continuously since **November 2010** to present. Evidence for February 2013 could not be located but the applicant's agent considers this to be a de minimis period. The evidence shows that the caravan was in use during the other winter months of

2012/13 before and after this period, and so, in their view, it is clear that caravan no. 2 has been in winter use in breach of condition 1 for a continuous period of at least ten years. A subsequent statutory declaration has been submitted from the occupiers of Caravan 2 which confirms that they have stayed there since March 2010.

Caravan 4: has been used during the months in question continuously since **January 2012** to present. There were no rental payments for the period November 2012 to February 2014 but the rent books of December 2013 and February 2014 confirm that the unit was occupied during this period but that the tenant was not paying their rent which resulted in a debt of 16 months rent in February 2014 providing evidence for November 2012 to February 2014. This is confirmed in the applicant's Statutory Declaration. During December 2014, the tenant who occupied caravan no.4 moved out but still paid and occupied the unit for the duration of the month. This is also confirmed in the applicant's Statutory Declaration.

Caravan 10: has been used during the months in question continuously since **February 2012** to present. There is no available evidence for February 2016 but the unit was in use as confirmed by the applicant in his Statutory Declaration. The missing payment for December 2017 seems to have been made in early 2018. This is confirmed in the applicant's Statutory Declaration. The missing payments for January- February 2021 is explained by the rent book of February 2021 which states that rent is owed for one month and for February 2021. Delayed payment for one of the owed rents was received in March 2021. This is also confirmed in the applicant's Statutory Declaration.

Caravan 17: has been used during the months in question continuously since **November 2011** to present. No payments were made for November – December 2012 and February 2013, but as explained in the applicant's Statutory Declaration, no. 17 was sold in September 2012 and was occupied by the new owners in November 2012, December 2012 and February 2013. It seems that the evidence of payment for these months has been lost over the years but the use did not stop as the unit remained occupied, as confirmed in the applicant's Statutory Declaration.

Caravan 35: has been used during the months in question continuously since at least **January 2012**. There is a short period for which evidence has not been located (February 2021) but payments were received in the other months of winter 2020/2021. A subsequent statutory declaration has been submitted from the occupiers of Caravan 35 which confirms that they have stayed there since September 2011.

The Statutory Declaration provided by Mr Cooper provides information about the purchase and the operation of Eastern Sands since he took it over from the Council (who used it for all year residential use) in 2008, Mr. Cooper explains how the specified caravans have been used all year round, normally evidenced by the paying of either a monthly pitch fee (in the case of caravan owners) or rental payment (in in the case of caravans rented from the applicant) during the winter months in breach of condition 1 of L/6/81/TP. Some of the specified caravans have changed from being owner occupied to being rented and vice versa at various times during this period.

It appears that most of the caravans at the Park are in residential use. Condition 1 of permission L/6/81/TP does not differentiate between occupation for holiday purposes or for residential purposes so that occupation for either during winter months would amount to a breach. There is no condition preventing residential use, only a condition to prevent the use of the caravans between November and February (inclusive) and subject to being allowed to visit and stay for up to 30 days during this period. The submitted application therefore seeks only to demonstrate for which caravans there is currently clear evidence that confirms they have been used in breach of condition 1 for more than ten years and are therefore immune from enforcement.

The applicant's agent concludes that:

"In its entirety, the evidence submitted clearly shows that on the balance of probabilities the specified caravans at the park have been in occupation for more than 30 days during the winter months of November, December, January and February, each year, for at least ten years. This breaches condition 1 of extant permission L/6/81/TP. Combined with the fact that the entire caravan park can lawfully operate the rest of the months (March to October) under the extant permission, the submitted evidence for the periods November to February confirms the use of the specified caravans in breach of condition 1 for more than ten years. The evidence is sufficiently precise and unambiguous, therefore warranting the grant of a Certificate of Lawfulness."

Council's Assessment

The previous application AWDM/0994/21 sought to demonstrate that the whole of the caravan park known as Eastern Sands was being occupied all year round. Insufficient evidence was forthcoming though and the application was withdrawn. Nevertheless, consultation with the Council's Private Sector Housing team during the course of that application resulted in the following response:

"The Private Sector Housing team have notified Planning Enforcement on several occasions that both sites are being used in a way that is contrary to their planning permission. A survey carried out in 2013 showed that 2 or 3 caravans on each site were being used for more than 30 days during the prohibited period. Agents on behalf of Eastern Sands were actively marketing units for long-term lets over winter within the last 3 years."

The evidence subsequently submitted in support of this application is thorough and includes a statutory declaration. It is a more limited Certificate than that previously sought and there are gaps in evidence of payment at certain times. However, it would appear that, on the balance of probability, those caravans specified in the application have been occupied during the winter months for a period of at least the last ten years and a Certificate can therefore be granted. The Council's lawyer has checked the application and agrees with the recommendation.

Recommendation

Certificate of Lawfulness be granted for the following reason:

The existing use of caravan pitch nos. 2,4,10,17 and 35 as a caravan site for 12 months of the year has, on the balance of probability, taken place for at least the last 10 years

Case Officer: Peter Barnett Date: 12 April 2022

Authorised by: Gary Peck Date: 20 April 2022